



Orientation to the Judicial Branch

Glossary of Terms



abstract: A summarized record of the actions taken by a court or other governmental agency.

acquittal: The legal finding by a judge or jury that the accused is not guilty.

action: A court proceeding when one party prosecutes another for the protection or enforcement of a right, the prevention or correction of a wrong, or the punishment of an offense.

ad hoc vice: The status of an attorney not licensed in California who is allowed to practice in the state for only a single case

adjournment: The act of postponing a court session to another time or place.

adjudicate: To exercise judicial authority in settling a legal dispute.

admonish: To warn, advise, or scold.

admonition to jury: A statement given by a judge to a panel of jurors advising them of (1) their duty and expected conduct as jurors, (2) the admissibility or non-admissibility of evidence, and (3) the purpose for which admitted evidence may be considered.

affidavit: A written statement of facts sworn to under oath in the presence of someone legally authorized to administer it, e.g., judge, notary public.

affirm: To make a solemn declaration or oath (used when a person does not want to swear to the truth of something).

allegation: A statement or assertion made without proof.

amend: To add to or alter a pleading that has been filed.

appeal: A request made after a trial by a party who has lost on one or more issues that a higher (appellate) court review the trial court's decision to determine if it was correct. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the "appellant"; the other party is the "appellee."

appellant: A person who appeals a judgment of a court.

appellate: About appeals; an appellate court has the power to review the judgment of a lower court (trial court) or tribunal. For example, the U.S. circuit courts of appeals review the decisions of the U.S. district courts.

appellate court: A court having jurisdiction to review the law as applied in a prior determination of the same case.

appellee: A person who responds to an appeal to a higher court brought by the appellant.

arbitration: A non-judicial process in which a neutral person reviews evidence, hears arguments, and renders a decision regarding a dispute. (Compare **mediation**, **neutral evaluation**.)

arraignment: A proceeding in which an individual who is accused of committing a crime is brought into court, told of the charges, and asked to plead guilty or not guilty.

assault: A threat or attempt to do bodily harm that falls short of actual battery; may or may not include physical violence. (See also **battery**.)

attorney of record: An attorney whose name is in the permanent case record as representing a party in an action.



backlog: A total inventory of cases that have not reached disposition within mandated time frames.

bail: Security (usually in the form of money) given for the release of a criminal defendant or witness from legal custody to secure his or her appearance on the day and time set by the court.

bailiff: A court attendant assigned by a sheriff, marshal, or constable to provide security to the court.

bar: The whole body of lawyers qualified to practice law within a defined geographical area.

battery: Any unlawful beating or other wrongful physical violence or constraint inflicted on a person without his or her consent. (Compare **assault**.)

bona fide: Made without fraud or deceit; sincere, genuine; from the Latin for "in or with good faith."

bond: A deed or instrument that binds, restrains, or obligates a person. In the courts, a bond is a written statement that obligates one person to pay a specified amount of money to another person.

book (booking): A process performed by police at the time of arrest that involves fingerprinting, photographing, and writing down personal data about a suspect.

brief: A written statement submitted by each party in a case that explains why the court should decide the case, or particular issues in a case, in that party's favor.

burden of proof: The duty of a party to produce the greater amount of evidence on a point at issue in a case.



California Rules of Court: The rules that regulate the practices and procedures in state court.

CALJIC: California Jury Instructions, Criminal.

capital case: A criminal case in which death may be the punishment.

capital offense: A crime punishable by death.

caption: A heading on all pleadings submitted to the court. It states information such as the case name, court, and case number.

caseflow management: The process of effectively managing cases from initial filing through final disposition.

case ID: Unique identification number assigned to a case.

caseload: The number of cases a judge handles in a specific time period.

certification: A written order by a judge that transfers a criminal case to another court in a different jurisdiction.

change of venue: The transfer of a civil or criminal case from one judicial district to another. (See also **venue**.)

charge: In criminal law, the formal statement of each accusation against a defendant. (See also **count**.)

citation: An order or summons notifying a defendant/respondent of the charges being made and commanding the defendant to appear in court and/or post bail.

civil case: An action brought by a person or party to recover property, to force someone to honor a contract, or to protect one's civil rights.

Orientation to the Judicial Branch

Glossary of Terms

clerk of court: An officer appointed by the judges of the court to assist in managing the flow of cases through the court, maintain court records, handle financial matters, and provide other administrative support.

code of law: A publication that contains the laws regarding general legal topics; e.g., the Code of Civil Procedure, the Civil Code, the Vehicle Code, the Penal Code, the Health and Safety Code.

compensatory damages: The amount of money to be paid by one person to another that covers only the actual cost or equivalent cost of the wrong or injury caused. (See also **damages**.)

complainant: Person who seeks to initiate court proceedings against another person. In a civil case the complainant is the plaintiff; in a criminal case the complainant is the state.

Constitution: The fundamental law of our nation that establishes the conception, character, and organization of its sovereign power and the manner of its exercise. Also, the document that contains the guiding rules and principles, the descriptions of the power of the government, and the essential rights of the people of a country or state or other governing collective.

contempt: An act or omission that obstructs the orderly administration of justice or impairs the dignity, respect, or authority of the court. May be demonstrated in behavior that shows intentional disregard or disobedience of a court order, either of which may be punishable by fine or imprisonment.

contested: A kind of case in which evidence is introduced by both parties.

continuance: The postponement of an action pending in a court to a future date. (See also **adjournment**; compare **recess**.)

conviction: A judgment of guilt against a criminal defendant.

conviction: The determination of guilt based on a plea, a jury verdict, or a finding of a judicial officer.

counsel: One or more lawyers who represent a client; also legal advice. (See **attorney**.)

count: The part of an accusation charging a suspect with a distinct offense. (See also **charge**.)

court: A judge or body of judges whose task is to hear cases and administer justice. (See also **bench**.)

court order: A legally binding edict issued by a court of law. Can be issued by a magistrate, judge, or properly empowered administrative officer.

court reporter: A person who makes a word-for-word record of what is said in court, generally by using a stenographic machine, shorthand, or an audio recording device, and then produces a transcript of the proceedings upon request.

court stamp: An embossed seal press or stamp that prints or embosses a seal on court documents that will reproduce legibly in photocopies and may include the name of the judicial district or consolidated city and county upon it.

court trial: A trial without a jury in which a judicial officer determines both the issues of fact and the law in the case.

criminal case: A case which arises out of a crime.

cross-examination: The testimony given by a witness when questioned by opposing counsel at a trial, hearing, or deposition.



damages: An award of money paid by the losing party to the winning party to compensate for losses or injuries incurred. Can be compensatory, i.e., money paid as compensation for the actual cost of an injury or loss; or punitive/exemplary, i.e., an amount of money greater than the actual

damages suffered that serves as punishment for willful or malicious acts by a defendant.

declaration: In the law of evidence, a sworn statement evidencing, supporting, or establishing a fact in writing made by a person and which is certified or declared under penalty of perjury to be true and correct. All declarations must be dated and signed by the declarant (i.e., the person making the statement) and must show the place of execution and either name the state in which the document was executed or indicate that the declaration was made under the laws of the State of California.

decree: A court decision that can be either (1) interlocutory, i.e., a preliminary finding before final disposition, or (2) final, i.e., a final judgment in which all issues of a case are settled.

defamation: The offense of injuring a person's character, fame, or reputation by false and malicious unprotected statements.

default judgment: A judgment made in favor of the plaintiff because of the defendant's failure to answer or appear to contest the plaintiff's claim.

defendant: In a civil case, the person or organization against whom the plaintiff brings suit; in a criminal case, the person accused of the crime.

deliberations: This is when a jury goes into the jury room to think about and discuss evidence and testimony to reach a verdict in a civil or criminal case.

delinquent: A minor who has committed an act that would be a crime if it were committed by an adult.

de novo: Trying a matter again as if it had not been heard before; from the Latin for "about the new."

deposition: Testimony, either written or oral, given under oath before an authorized third party. A deposition is given outside of court for the purpose of preserving testimony, or obtaining testimony from a witness living at a distance, and to aid in the preparation of pleadings. (See also **discovery**.)

direct examination: Questioning of a witness in court by the party on whose behalf the witness was called to testify. (Compare **cross-examination**.)

discovery: The gathering of information (facts, documents, or testimony) before a case goes to trial. Discovery may take the form of depositions, interrogatories, or requests for admissions, or it can take place more informally through independent investigation or conversations with opposing counsel.

disposition: The final decision by the court in a controversy.

diversion: An alternative sentence (rather than jail) in which a defendant is supervised by a probation officer while attending a rehabilitation program so that upon successful completion the charges are dismissed without adjudication. (Compare **electronic surveillance**, **home detention**.)

due process: The regular course of administration of law through the courts. A constitutional guarantee of due process requires that every person have the protection of a day in court, representation by an attorney, and the benefit of procedures that are speedy, fair, and impartial.



en banc: "On the bench" or "as a full bench." Refers to court sessions where the entire membership of a court participates rather than the usual number. U.S. circuit courts of appeals, for example, usually sit in panels of three judges, but all the judges in the court may decide certain matters together. They are then said to be sitting "en banc" (occasionally spelled "in

banc").

equitable: (1) Describes civil suits in "equity" rather than in "law." In English legal history, courts of "law" could order only the payment of damages. A separate court of "equity" could order someone to do something or to stop doing something. (See also **injunction**.) In American jurisprudence, the federal courts have both legal and equitable power, but the distinction is still important. For example, a trial by jury is normally available in "law" cases but not in "equity" cases. (2) To deal fairly and equally with all concerned. This implies not only a fair or just determination on legal grounds, but also a judgment guided by common-sense notions of fairness and justice.

evidence: Any type of proof that is legally presented at trial through witnesses, records, and/or exhibits.

exhibit: A document or material object produced and identified in court for the purpose of introducing it as evidence in a case. Each of these documents or objects is ordinarily given an identifying letter or number in alphabetical or numerical sequence before it is offered as evidence.



family law court: A type of court that hears matters related to dissolution of marriage, legal separation of spouses, nullification of marriage, child custody and support matters, and domestic violence petitions.

felony: A crime which is punishable by death or by imprisonment in the state prison. (Compare **infraction**, **misdemeanor**.)

fiduciary: A person who acts as a trustee or primarily for another person's benefit. As an adjective rather than a noun, fiduciary means something based on a trust or confidence. (See also **trustee**.)

forfeiture: The loss of money or property resulting from failure to meet a legal obligation. (See also **bail forfeiture**.)

fraud: An intentional deception that financially injures another person(s) in any way.



garnishment: A legal process under which part of a person's wages and/or assets is withheld for payment of a debt. This term is usually used to specify that an income or wage withholding is involuntary. (See also **direct income withholding**, **income withholding**, **wage withholding**.)

good cause: A good reason. For example, a party must have good cause (better than not having a car or not being able to find a baby-sitter) for not attending a court hearing.

grand jury: A body of 16 to 23 citizens who listen to evidence of criminal allegations presented by prosecutors and determine whether there is probable cause to believe an individual committed an offense. (See also **indictment**.)

guarantor: One who promises to be responsible for the debt or default of another.

guardianship: A California court proceeding in which a judge appoints someone to care for a person under 18 years of age or to manage the minor's estate, or both. In some states, conservatorship of an adult is called guardianship, but not in California.

guilty plea: A formal admission of guilt to an offense charged in a criminal complaint, information, or indictment.



habeas corpus: The name of a **writ** used to bring a person before a court or judge for determination of whether that person is being unlawfully denied his or her freedom; from the Latin for "You have the body."

hearing: A formal court proceeding with all parties in a case present, but without a jury.

homicide: The killing of one human being by the act, procurement, or omission of another (not necessarily a crime; see following). Can be (1) excusable, i.e., resulting from a lawful act when no hurt is intended or from an act of self-defense; (2) felonious, i.e., resulting from any wrongful act without any excuse or justification in law; or (3) justifiable, i.e., resulting from an intentional but lawful act such as the execution of a death sentence by an agent of the law (can also apply to self-defense). (See also **manslaughter, murder.**)



immunity: Any exemption from a duty, liability, or service of process. (See also **privilege.**)

impeachment: (1) The process of calling a witness's testimony into question. For example, if the attorney can show that the witness may have fabricated portions of his or her testimony, the witness is said to be "impeached"; (2) the constitutional process whereby the House of Representatives may "impeach" (accuse of misconduct) high officers of the federal government, who are then tried by the Senate.

indictment: The formal charge issued by a grand jury stating that there is enough evidence that the defendant committed the crime to justify having a trial; it is used primarily for felonies. (See also **information.**)

indigent: Generally, this term defines a person who is poor, needy, and has no one to look to for support.

infraction: A minor violation of a law, contract, or right that is not a misdemeanor or a felony and that cannot be punished by imprisonment. (Compare **felony, misdemeanor.**)

injunction: A court order either prohibiting a defendant from performing a specific act or compelling a defendant to perform a specific act. (Compare **enjoin, restraining order.**)

in propria persona: A case in which a party represents himself or herself without an attorney; same as "in pro per"; from the Latin for "in one's own proper person." (See also **pro per, pro se.**)

inquest: A legal inquiry, before a court of law or other officers legally empowered to hold inquiries, usually to determine the cause and circumstances of a death.

interrogatories: Written questions sent by one party in a lawsuit to an opposing party as part of pretrial discovery in civil cases. The party receiving the interrogatories is required to answer them in writing under oath. (See also **discovery.**)



judgment: (1) The official decision of a court finally resolving the dispute between the parties to a lawsuit; (2) the official decision or finding of a judge or administrative agency hearing officer concerning the respective rights and claims of the parties to an action; also known as a **decree** or **order** and may include the "findings of fact and conclusions of law"; (3) the final decision of the judge stating which party has prevailed and the terms of the decision. Can be n.o.v., i.e., a ruling

in favor of one party despite the fact that there had been a verdict for the other party (from the Latin for "notwithstanding the verdict"), or summary, i.e., court's decision prior to a trial directing that the action has no disputed facts and that one party is entitled to judgment as a matter of law. (Compare

jurisdiction: (1) The legal authority of a court to hear and decide a case; (2) the geographic area over which the court has authority to decide cases; (3) the territory, subject matter, or persons over which lawful authority may be exercised by a court, as determined by constitution or statute.

jury: A group of citizens selected according to law and impaneled to determine the issues of fact in a case. Can be: (1) grand, i.e., body of citizens who determine whether probable cause exists that a crime has been committed and whether an indictment should be issued; (2) hung, i.e., a jury that is unable to agree on a verdict after a suitable period of deliberation; (3) petit (or trial), i.e., an ordinary jury for the trial of a criminal or civil action; or (4) special, i.e., a jury ordered by the court, on the motion of either party, in cases of unusual importance or intricacy. (See also **grand jury, petit jury.**)

jury instructions: The guidelines given by the judge at the beginning and end of a trial that explain what the law in the case is and how the jurors should evaluate the evidence. (See also **admonition to jury, instructions to jury.**)



keeper: An officer appointed by the court to negotiate custody of money or property legally seized in connection with a pending case.

keeper levy: A judgment enforcement procedure in which the levying officer takes over the operation of a judgment debtor's business for a limited duration to obtain cash and credit card receipts for payment to the judgment creditor. (See also **judgment creditor, judgment debtor.**)



lawsuit: (1) A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty, which resulted in harm to the plaintiff; (2) a legal dispute brought to a court for resolution. (See also **action, case.**)

Letters of Conservatorship: A court document that states that the conservator is authorized to act on the conservatee's behalf. Also called *Letters*.

litigants: The parties involved in a lawsuit.



manslaughter: The unlawful killing of a person without any deliberation. Can be voluntary, i.e., the unlawful taking of human life under circumstances falling short of premeditated intent to kill, or involuntary, i.e., the unintentional taking of human life as a result of performing an unlawful act or negligently performing a lawful act. (Compare **murder**; see also **homicide.**)

mediation: A non-binding process in which a neutral person facilitates communication between disputants to assist them in reaching a mutually acceptable settlement. (Compare **arbitration,**

neutral evaluation.)

Miranda warning: Refers to a United States Supreme Court decision requiring that at the time of arrest and before questioning a person be advised of certain rights against self-incrimination.

misdemeanor: An offense punishable by one year of imprisonment or less. (See also **felony**.)

mistrial: A trial that has been terminated and declared void due to prejudicial error in the proceedings or other extraordinary circumstances.

motion: An oral or written request made by a party to the court for a ruling or an order on a particular point. A motion to reduce bail is a request to decrease the amount of bail needed to guarantee that the defendant will appear in court when required. A motion to release on own recognizance is a request to release a defendant without bail, dependent upon agreement to appear when the court so orders. A motion to set is an application made to the judge to set a date for a future trial. A motion to quash is a request to make something void or ineffective, such as to quash a subpoena.

municipal court: Prior to the Trial Court Unification Act of 1998, this court was found in judicial districts having more than 40,000 people and was part of the lower court system. The following types of cases were heard in municipal courts: (1) civil suits for damages less than \$25,000; (2) all nonjuvenile criminal misdemeanors carrying penalties of not more than one year in county jail or a fine of \$2,500; and (3) preliminary hearings in felony cases.



negligence: The failure of a person to use that degree of care in a given situation which by law one is obligated to use in order to protect the rights and property of others.

nolo contendere: No contest; from the Latin for "I do not wish to contend." A plea of.

notice: A written announcement or warning. For example, a notice to an opposing party that on a certain date a motion will be made in court.



objection: A formal protest made by a party regarding testimony or evidence sought to be introduced by the other side.

obligation: Law or duty binding parties to follow their agreement. An obligation or debt may be created by a judgment or contract, e.g., child support.

opinion: A judge's written explanation of the decision of the court in appellate cases. Because a case may be heard by three or more judges in the court of appeals, the opinion in appellate decisions can take several forms. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority will write the opinion. The judges who did not agree with the majority may write separately in dissenting or concurring opinions to present their views. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law the majority used to decide the case. A concurring opinion agrees with the decision of the majority opinion, but offers further comment or clarification or even an entirely different reason for reaching the same result. Only the majority opinion can serve as binding precedent in future cases. (See also **precedent**.)

oral argument: An opportunity for lawyers to summarize their position before the court and also to answer the judge's questions.

order: (1) Decision of a judicial officer; (2) a directive of the court, on a matter relating to the main proceedings, that decides a preliminary point or directs some steps in the proceedings. Generally used for invalidating a prior conviction, e.g., an order issued following a hearing in which a prior conviction is found invalid because certain legal standards were not met during the time of trial and conviction; setting a fee, e.g., an order directing a defendant to reimburse the county for costs incurred for a court-appointed attorney; to show cause, e.g., an order to appear in court to give reasons why an action cannot, should not have been, or has not been carried out. (See also **court order**, **support order**.)

ordinance: A regulation established by a local government to enforce, control, or limit certain activities.



panel: (1) In appellate cases, a group of judges (usually three) assigned to decide the case; (2) in the jury selection process, the group of potential jurors; (3) the list of attorneys who are both available and qualified to serve as court-appointed counsel for criminal defendants who cannot afford their own counsel.

pardon: An act of grace by the chief executive of a state or country that releases a convicted person from punishment imposed by a court sentence.

parole: A conditional release from imprisonment that entitles the person receiving it to serve the remainder of the sentence outside of the prison as long as all conditions of release are met.

party: One of the litigants. At the trial level, the parties are typically referred to as the plaintiff or petitioner and the defendant or respondent. On appeal, they are known as the appellant and appellee.

perjury: A false statement made willfully and knowingly while under oath in a court proceeding.

petit jury (or trial jury): A group of citizens who hear the evidence presented by both sides at trial and determine the facts in dispute. Criminal juries consist of 12 persons in federal court; civil juries consist of at least six persons. (See also **jury** and **grand jury**.)

petition: A formal written request presented to the court requesting specific judicial action. (Compare **motion**.)

petitioner: One who presents a petition to the court.

plaintiff: A person who brings an action; the party who complains or sues in a civil case.

plea: In a criminal case, the defendant's statement pleading "guilty" or "not guilty" in answer to the charges. (See also **nolo contendere**.)

plea bargain: Negotiation between the prosecutor and the accused to exchange a guilty plea for conviction of a lesser charge, subject to approval by the court.

pleading: (1) Written statement filed with the court that describes a party's legal or factual assertions about the case; (2) a written statement in which one party responds to another's allegations to narrow the dispute to one or more specific points of difference.

post: (1) A prefix meaning "after," as in "post-trial" matters; (2) to "post" something is to bring it to the attention of the public, as in "to post a notice of sale."

power of attorney: A person (the "principal") authorizes someone else (the "agent" or "attorney in fact") to take care of business for the principal. A power of attorney authorizes the agent to do whatever is necessary to manage the principal's assets. A limited or special power of attorney can be drawn up to be more restrictive, by setting time limits for the agent to serve, limiting the agent

to particular actions, or authorizing the agent to manage just particular assets. There are general powers of attorney, limited or special powers of attorney, and durable powers of attorney. A general or limited power of attorney ends when the principal becomes incompetent. A durable power of attorney stays in effect if the principal becomes incapacitated.

precedent: A decided case that furnishes a basis for determining later cases involving similar facts or issues. Judges will generally "follow precedent," meaning that they use the principles established in earlier cases to decide new cases dealing with similar facts and legal issues. A judge will disregard precedent if a party can show that the earlier case was wrongly decided or that it differed in some significant way from the current case.

preliminary: Introductory, preparatory, preceding, or leading up to the main matter of business, e.g., a preliminary injunction is one that precedes the issuance of a permanent injunction.

preliminary examination/hearing: A proceeding before a judicial officer in which evidence is presented so that the court can determine whether there is sufficient cause to hold the accused for trial on a felony charge.

presiding judge/justice: In a court with multiple judicial officers, the judge/justice who performs the basic administrative functions of managing the court's business.

pretrial conference: A meeting of the judge and lawyers to plan the trial, discuss which matters should be presented to the jury, review proposed evidence and witnesses, and set a trial schedule. Typically, the judge and the lawyers also discuss the possibility of settling the case.

pretrial services: Services provided by a local agency in which an investigation of a criminal defendant's background is conducted so a judge may decide whether to release the defendant into the community before trial.

probable cause: A reasonable basis for assuming that a charge or fact is well founded.

probate: The judicial process in which a document purporting to be the will of a deceased person is proved to be genuine or not; lawful distribution of a decedent's estate.

probate court: The department of each county's superior court that deals with probate conservatorships, guardianships, and the estates of people who have died.

probation: (1) A sentencing alternative to imprisonment in which the court releases a convicted defendant under supervision of a probation officer who makes certain that the defendant follows certain rules, e.g., gets a job, gets drug counseling; (2) a department of the court that prepares a pre-sentence report.

pro bono: Legal services performed for free; from the Latin meaning "for the good."

procedure: The rules for conducting a lawsuit. There are rules of civil procedure, criminal procedure, evidence, bankruptcy, and appellate procedure.

proceedings: Generally, the process of conducting judicial business before a court or other judicial officer. A proceeding refers to any one of the separate steps in that process, e.g., a motion, a hearing.

promissory note: A written document by which one person promises to pay money to another.

pronouncement of judgment: The formal issuance by the judge of a judgment in a case.

prosecute: To charge someone with a crime and then try them for it. A prosecutor tries a criminal case on behalf of the government.

public defender: Counsel appointed by the court, primarily to defend indigent defendants in criminal cases.

public record: A court record available for inspection by the general public. (Compare **confidential record, sealed record.**)

purge: To eliminate inactive case records from court files.



Qualified Medical Child Support Order (QMCSO): An order, decree, or judgment, including approval of a settlement agreement, issued by a court that provides for medical support for a child of a participant under a group health plan or provides for health benefit coverage to such child.

Qualified Domestic Relations Order (QDRO): An order, decree, or judgment, including approval of a settlement agreement issued by a court and approved by a pension plan, that provides for division of a pension plan to make an equitable property division or payment of child or spousal support.



rebuttal: Evidence presented at trial by one party intended to overcome evidence introduced by another party.

recess: A brief adjournment in a trial ordered by the judge. (See also **adjournment**; compare **continuance**.)

record: A written account of the proceedings in a case, including all pleadings, evidence, and exhibits submitted in the course of the case.

record on appeal: A copy of the pleadings, exhibits, orders, or decrees filed in a case in a trial court as well as a transcript of the testimony taken in the case.

record sealing: A request for an order by the court to "seal" the record of a misdemeanor conviction. In order to be eligible, the offense must have been committed before a defendant's 18th birthday and a release of penalties order must have been previously granted. A sealing order involves closing all conviction, charge, and arrest records or any other records related to the matter in question. Once an order is made to seal the record, the misdemeanor is deemed to never have happened in the eyes of the law.

reinstated bail: Bail previously forfeited, exonerated, or reduced that is now reestablished in its original amount. (See also **bail exoneration**, **bail forfeiture**.)

remand: (1) The act of an appellate court sending a case to a lower court for further proceedings; (2) to return a prisoner to custody.

remanding order: An order to the sheriff directing that a defendant be held in custody until his or her next court appearance, pending the posting of bail.

report and sentence: The proceeding in a criminal case following conviction in which the judge reviews the probation report and imposes sentence on the defendant.

reporter: A court official responsible for recording the proceedings in trials, including the questions addressed to, and answers made by, witnesses.

request for admission: A method of discovery in which one party formally and in writing asks the opposing party to admit the truth of certain facts relevant to a case. (See also **discovery**.)

respondent: The person against whom an appeal is made; the responding party in a dissolution, nullity, adoption, or probate matter. (See also **dissolution**, **nullity**.)

restitution: The act of restoring or giving the equivalent value to compensate for an injury, damage, or loss.

restraining order: A time-limited court order that directs a person to stop doing something until

a formal hearing is held to determine an outcome. (See also **injunction.**)



sanction: (1) To concur, confirm, or ratify. (2) A penalty or punishment to enforce obedience to the law.

sentence: The formal pronouncement by a court stating the punishment to be imposed on a person convicted of a criminal offense.

settlement: An agreement reached among the parties that resolves the case at any time before court findings or a jury verdict. (See also **finding, verdict.**)

show cause: A court order directing a person to appear in court and present any evidence why the remedies stated in the order should not be confirmed or executed. A show cause order is usually based on a motion and affidavit asking for the judge to make certain decisions.

small claims court: The division of a trial court that handles all civil cases seeking monetary awards of \$5,000 or less as well as certain unlawful detainer actions. In such cases, there are no attorneys, no rules of evidence, no juries, and no formal findings.

statute: A law passed by Congress or a state legislature.

statute of limitations: A law that sets the deadline by which parties must file suit to enforce their rights. For example, if a state has a four-year statute of limitations for breach of a written contract, and "John" breached a contract with "Susan" on January 1, 1996, Susan must file her lawsuit by January 1, 2000. If the deadline passes, the "statute of limitations has run" and the party (Susan, in the example) may be prohibited from bringing a lawsuit; also expressed as the claim being "time-barred." There are very limited conditions under which a statute may be extended or "tolled."

stipulation: An agreement relating to a pending court proceeding between parties or their attorneys.

subpoena: An official order to attend court at a stated time. The most common use of the subpoena is to summon witnesses to court for the purpose of testifying in a trial.

subrogate: To substitute one person in place of another with reference to a legal claim.

summary judgment: A court decision made on the basis of statements and evidence presented for the record without a trial. It is used when there are no factual disputes to resolve in the case. Summary judgment is granted when, on the undisputed facts in the record, a party is entitled to judgment in their favor as a matter of law.

summons: A notice to a defendant that an action against him or her has been commenced in the court and that a judgment will be taken against him or her if the complaint is not answered within a certain time.

superior court: The trial court of general jurisdiction in each county of the State of California. This court hears all adoption, conciliation, family law, juvenile, criminal, civil, and probate matters.

suppress: To stop or put an end to someone's activities. To suppress evidence is to withhold it from disclosure or publication.

suspended sentence: In criminal law, this means in effect that the defendant is not required at the time the sentence is imposed to serve the sentence.



testate: Having made a will or having died leaving a valid will. (See also **intestate.**)

testator: A person who has made a will or who has died leaving a valid will.

testify: To give evidence under oath as a witness in a judicial proceeding.

testimony: Evidence presented orally by witnesses during trials, before grand juries, or during administrative proceedings.

third-party action: Generally, an action taken by anyone who is not a party to an underlying contract, agreement, or other transaction.

third-party claim: An interest or share in property that has been seized by order of a court.

tort: A private or civil wrong, independent of contract; failure to perform some duty imposed by law or custom, resulting in injury to another. The "victim" of a tort may be entitled to sue for damages to compensate for the harm suffered. Victims of crimes may also sue in tort for the wrongs done to them. (See also **damages.**)

trial: The hearing and determination of issues of fact and law, in accordance with prescribed legal procedures, in order to reach a disposition. Can be either (1) a bench trial, i.e., a court trial that is heard and decided by a judge, or (2) a jury trial, i.e., a court trial that is heard and decided by a jury, which usually consists of 12 people.

trial court: The first court to consider litigation, generally the superior court. (Compare **appellate court.**)

tribunal: A court, administrative agency, or quasi-judicial agency authorized to establish or modify support orders or to determine parentage.

trust fund: Money, stocks, bonds, or securities held by or under the control of someone for the use and benefit of another.

trustee: (1) A person who, having legal title to property, holds it for the benefit of another; (2) in a bankruptcy case, a person appointed to represent the interests of the bankruptcy estate and the unsecured creditors. The trustee's responsibilities may include liquidating the property of the estate, making distributions to creditors, and bringing actions against creditors or the debtor to recover property of the bankruptcy estate.



U.S. Attorney: A lawyer appointed by the President in each judicial district to prosecute and defend cases for the federal government. The U.S. Attorney employs a staff of assistant U.S. attorneys who appear as the government's attorneys in individual cases.

unlawful detainer: When a person detains or continues to hold some real property that is no longer rightfully theirs. An unlawful detainer is also the name for a summary civil action in which a landlord seeks to evict a tenant who the landlord claims is no longer entitled to live on the premises.

uphold: When an appellate court agrees with the lower court decision and allows it to stand. (See also **affirmation.**)



vacate the default judgment: Getting a default judgment removed or erased.

venire: Most commonly used to describe the whole group of people called for jury duty from which the jurors are selected. From the Latin for "to come" (as in to come, or appear, before the court).

venue: The particular court (county) in which an action may properly be brought.

verdict: A jury's finding or decision on the factual issues of a case. Can be: (1) general, i.e., a verdict given in a civil case in which the jury finds in favor of the plaintiff or in favor of the defendant; (2) special/directed, i.e., a verdict given by the judge in a civil case, after considering the law as it applies to the case and after the jury states its conclusions on specific factual issues.

verification: An oral or written statement that something is true, usually sworn to under oath.

voir dire: The process by which judges and lawyers select a trial jury from among those eligible to serve by questioning them to make certain that they can fairly decide the case; from the French for "to speak the truth."



wage garnishment: A legal procedure that requires the employer of a judgment debtor to withhold a portion of the judgment debtor's wages to satisfy a judgment.

waiver: To give up a legal right voluntarily, intentionally, and with full knowledge of the consequences.

Waiver of Rights form: A form signed by a defendant and the judge recording which, if any, legal rights are waived by the defendant.

ward of the court: A minor who is under the care and control of the juvenile court rather than his or her parent(s).

warrant: A written order issued and signed by a judicial officer directing a peace officer to take specific action. Can be: (1) an arrest warrant, i.e., one that commands a peace officer to arrest and bring before the court the person accused of an offense for purpose of commencing legal action; (2) a bench warrant, i.e., a written order issued by the court from the judge or bench commanding a person's arrest because of his or her failure to appear in court; (3) a recall warrant, i.e., a procedure for removing from Department of Justice and state police computers information concerning canceled warrants in order to avoid mistaken arrests; or (4) a search warrant, i.e., an order issued by a judge, based on a finding of probable cause, directing law enforcement officers to conduct a search of specific premises for specific persons or things and to bring them before the court.

warranty of habitability: A promise that goes with the rental of residential property that it will be fit for human habitation, including working plumbing and electrical systems, locking doors and windows, watertight roof, and other health and safety conditions. This promise is by statute, even if the landlord does not include it in the lease or rental agreement.

will: The written instrument by which a person declares his or her wishes about the disposition of personal property after death.

witness: A person called by either side in a lawsuit to give testimony before the court or jury.

writ: A written order or directive issued by a court commanding that certain action be taken. Can be a writ of: (1) attachment, i.e., one that orders that specified property be attached; (2) certiorari, i.e., an order by an appellate court granting or denying a review of judgment; (3) execution, i.e., an order directing the enforcement of a court judgment; (4) habeas corpus, i.e., a writ that orders the release of someone who has been unlawfully imprisoned; (5) mandamus (or mandate), i.e., a writ that orders the performance of any act designated by law to be part of a person's duty or

Orientation to the Judicial Branch

Glossary of Terms

status; or (6) prohibition, i.e., the counterpart of a writ of mandate that orders that further proceedings or other official acts be stopped (usually issued from a higher to a lower court).

writ of certiorari: An order issued by the U.S. Supreme Court directing a lower court to transmit records for a case that the Supreme Court will hear on appeal.